

### REMARKS

By the present amendment, Applicant has amended Claims 1, 3-6, 10 and 12-20, and cancelled Claims 2, 7-9 and 11. Claims 1, 3-6, 10 and 12-20 remain pending in the present application. Claims 1, 15 and 19 are independent claims.

Applicant appreciates the courtesies extended to Applicant's representative during the personal interview held January 12, 2005. The present response summarizes the agreement reached during the interview. At the interview a proposed amendment to the claims was presented for discussion. Proposed amended Claim 1 additionally set forth the dome shaped cover being substantially hemi-spherical, as shown in the drawings, and that the tray has an inflammable material therein. It was noted that the original specification and claims included a typographical error in denoting a "non-inflammable" material. Since the purpose of the disclosed embodiments is the safe disposal of cigarette butts, and the like, and the disclosure and original Claim 12 set forth the material as sand, the intent of the disclosure is to establish an inflammable material. Arguments were advanced that neither of the applied prior art references disclosed a selectively lockable dome shaped cover that is substantially hemi-spherical. The Examiner indicated such amendments, formally filed, would overcome the applied prior art of record.

As discussed during the aforementioned interview, the disclosure has been amended to correct the typographical error, establishing that the material partially filling the tray is -- inflammable --. No new matter has been introduced.

The indication by the Examiner in the recent Office Action (date mailed July 29, 2004) that Claims 19 and 20 were allowable over the prior art of record is noted with appreciation.

In the recent Office Action the Examiner rejected Claim 19 under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicant has amended Claim 19 to correct an obvious typographical error. Applicant respectfully submits that claim, as amended, meet the specific requirements of 35 U.S.C. § 112, second paragraph, and that no new matter has been entered into the claim.

In the recent Office Action the Examiner rejected Claims 1-18 under 35 U.S.C. § 103(a) as unpatentable over JP 10-109701. Claims 1, and 7-14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Luedecke. These rejections are respectfully traversed.

Applicant has amended independent Claims 1 and 15 to set forth that the dome shaped cover is hemi-spherical, and that the tray is partially filled with an inflammable material. Applicant respectfully submits that for at least these reasons, amended independent Claims 1 and 15 and their corresponding dependent Claims are allowable over the prior art applied of record, along with indicated allowable Claims 19 and 20.

Applicant will advance arguments hereinbelow to illustrate the manner in which the presently claimed invention is patentably distinguishable from the cited and applied prior art. Reconsideration of the present application is respectfully requested.

The applied prior art reference to JP 10-109701 discloses a trashcan having a lockable curved top that is hingedly attached to a lower cabinet portion. This reference does not provide a hemi-spherical dome shaped cover as set forth in the amended independent Claims 1 and 15. In addition, this reference fails to show an inflammable material partially filling the ashtray as set forth in independent Claims 1 and 15, as amended. Aside from Applicants' own disclosure, there is no guidance or motivation that would have led one having ordinary skill in the art to arrive at Applicants' presently claimed structure. Applicants respectfully submit that

independent Claims 1 and 15 and their corresponding dependent claims are patentable over the applied prior art reference to JP 10-109701, and as such, Applicants respectfully request the withdrawal of this particular grounds of rejection.

The applied prior art reference to Luedecke discloses a collection device for smoking debris having a lockable funnel shaped throat passage that is hingedly attached to a lower receptacle chamber. The Luedecke reference does not provide a hemi-spherical dome shaped cover as set forth in the amended independent Claims 1 and 15. In addition, the Luedecke reference fails to show an inflammable material partially filling the ashtray as set forth in independent Claims 1 and 15, as amended. Moreover, Luedecke expressly teaches away from providing an inflammable material for extinguishing the lighted smoking debris items. Aside from Applicants' own disclosure, there is no guidance or motivation that would have led one having ordinary skill in the art to arrive at Applicants' claimed structure. Applicants respectfully submit that independent Claims 1 and 15 are patentable over the applied prior art reference to Luedecke, and as such, Applicants respectfully request the withdrawal of this particular grounds of rejection.

The claims in this application have been revised to more particularly define Applicants' unique construction in view of the prior art of record. Reconsideration of the claims in light of the amendments and for the following reasons is respectfully requested.

*Application Serial No.: 10/639,618*  
*Art Unit: 1731*

*Attorney Docket No. 22870.00*  
*Confirmation No. 7411*

For the foregoing reasons, Applicant respectfully submits that the present application is in condition for allowance. If such is not the case, the Examiner is requested to kindly contact the undersigned in an effort to satisfactorily conclude the prosecution of this application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Richard C. Litman', with a stylized flourish at the end.

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